



## U.S. Department of Justice

Professional Responsibility Advisory Office

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Washington, D.C. 20530

December 6, 2018

Benjamin Wittes  
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Senior Fellow in Governance Studies, The Brookings Institution  
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RE: Freedom of Information Act (FOIA) Request PRAO-FOIA-18-023

Dear Mr. Wittes:

I write on behalf of the Professional Responsibility Advisory Office (PRAO) to respond to your Freedom of Information Act request dated November 8, 2018, and received in this office on that date. You request:

- 1) “requests for advice, authorizations, determinations, guidance, or legal issues arising from Matthew Whitaker’s possible involvement in, or supervision of, the investigation into Russian interference with the 2016 presidential election and related matters being conducted by Special Counsel Robert Mueller (hereinafter the “Mueller investigation”);
- 2) “advice, guidance, or written opinions that PRAO has provided regarding ethical or legal issues arising from Matthew Whitaker’s possible involvement in, or supervision of, the Mueller investigation, including issues relating to impartiality in performing official duties pursuant to 5 C.F.R. § 2635.501-503 and disqualification arising from personal or political relationships pursuant to 28 C.F.R. § 45.2”; and
- 3) “authorizations or determinations made in relation to Matthew Whitaker’s potential involvement in, or supervision of, the Mueller investigation, including but not limited to those made pursuant to C.F.R. § 2635.502(a) and 28 C.F.R. § 45.2(b).”

Please be advised that PRAO conducted a search of its records and located three (3) records of communication responsive to request 1). The same three (3) records are responsive to request 2). We have no records responsive to request 3). These records, totaling 13 pages, are withheld in full pursuant to Exemption 5 of the FOIA as intra-agency communications protected by the deliberative process, attorney work product and attorney-client privileges. 5 U.S.C. §

552(b)(5).

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAOnline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Cordially,

Marguerite A. Driessen  
Senior Legal Advisor, Chief FOIA Officer  
Professional Responsibility Advisory Office